Shelby County
Tennessee

Mark H. Luttrell, Jr., Mayor

Request for Proposal

Shelby County Government

Purchasing Department

160 N. Main Street, 9th Floor, Suite 900
Memphis, TN 38103

Issued: July 28, 2015

Due: August 18, 2015 no later than 4:00 P.M. (Central Standard Time)

RFP #16-007-07

Drayage of Voting Machines
(Shelby County Election Commission)

Shelby County Government on behalf of the Shelby County Election Commission is soliciting written proposals, on a competitive basis, from qualified companies or professionals to deliver and return touchscreen voting machines to and from various polling locations for the upcoming elections. Information regarding this RFP is located on the County's website at www.shelbycountytn.gov. At the top of the home page, click on the links "Department", "P" for the Purchasing Department and "Bids" to locate the name of the above-described RFP.

The proposal, as submitted, should include all estimated costs related to the services requested in the RFP specifications. If selected, your proposal will be the basis for negotiating a contract with Shelby County Government. Your proposal must be received in the office of the Shelby County Purchasing Department no **later than 4:00 p.m. (CST) on Tuesday, August 18, 2015**. Proposals should be addressed to:

Debra D. Louis, Buyer
Shelby County Government
Purchasing Department
160 N. Main Street, 9th Floor, Suite 900
Memphis, TN 38103

The package containing the original **(clearly identified as original)** and four (4) copies of your proposal must be sealed and marked with the proposer's name and **"CONFIDENTIAL – DRAYAGE OF VOTING MACHINES, RFP #16-007-07**" noted on the outside.

Sincerely,

Signed Original On File

Debra D. Louis, Buyer
Shelby County Government
Purchasing Department

TABLE OF CONTENTS

I. INTRODUCTION
II. MINIMUM PROPOSER REQUIREMENTS
III. CORRESPONDENCE
IV. PROPOSAL SUBMISSION DEADLINE
V. PROPOSAL TIMELINE
VI. PROPOSAL CONDITIONS
VII. GENERAL REQUIREMENTS AND INFORMATION
VIII. AWARD OF CONTRACT
IX. PURPOSE / SCOPE OF WORK
X. CONTRACT REQUIREMENTS
XI. PROPOSAL SUBMISSION
XII. PROPOSAL EVALUATION AND SELECTION

Note: Please make sure you pay close attention to Sections: I-V, IX & XI. These sections will clearly outline what information is required to properly respond and prepare your RFP response.

Please download all of the additional information and attachments that accompany this RFP.

I. INTRODUCTION

Shelby County Government, on behalf of the Shelby County Election Commission, (the "County") is soliciting proposals from interested and qualified companies or professionals to perform services for the delivery and return of touch screen voting machines for the upcoming elections (the "Services"). This Request for Proposal ("RFP") is being released to invite interested and qualified companies to prepare and submit proposals in accordance with instructions provided where the successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this RFP. In this RFP, the terms Proposer and Contractor are used interchangeably unless the context indicates otherwise.

II. MINIMUM PROPOSER REQUIRMENT

All Proposers must:

1. Have sufficient experienced staff or sub-contractors certified in the State of Tennessee to provide the required Services.
2. Have at least three (3) years of experience in transporting electronic equipment similar to voting machines.
3. Have all the appropriate licenses and certifications required in the State of Tennessee to perform the Services.
4. Be properly equipped to efficiently and expeditiously handle placement and return of the voting units within a maximum of five (5) working days immediately prior to the day of election and subsequent thereto, which will not involve overtime labor, etc.
5. Be responsible for handling and transporting voting machines at its risk and must agree to pay all costs covering damage to any machine, person or property during such handling and transporting.
6. Independent contractors (sole proprietors) must adhere to State of Tennessee Public Chapter No. 436, known as the "Tennessee Lawful Employment Act" (effective date of 01/01/12). ***Proof and documentation of employment eligibility must be included with the proposal, if applicable.***
7. **Apply** and **qualify** for a vendor number through the Purchasing Department and an Equal Opportunity Compliance (EOC) certification number through our EOC Administration Office ***prior to submitting your response (*****MANDATORY***, see details outlined below***).***
8. Attest that you adhere to all Title VI requirements and provide proof/documentation if necessary.
9. Provide proof of the minimum insurance requirements (**MANDATORY**, please review closely).
10. Submit a five percent (5%) bid bond with your proposal.
11. Provide a written statement stating the ability to provide a Performance and Labor/Materials Bond of 100% of the total cost of services, if selected for the resultant contract.

Please Note: As a part of doing business with Shelby County, each individual, company or organization is required to obtain a vendor number and an "Equal Opportunity Compliance (EOC)" certification number.

If your company does NOT have a vendor number and EOC number you can access the online applications to receive the numbers indicated above at www.shelbycountytn.gov. To obtain a vendor number and an EOC number, please follow the instructions below:

Vendor Number (Purchasing Department)

At the top of the home page, click on the links "Department", "P" for the Purchasing Department and "Conducting Business with Shelby County". The "Vendor Registration" link is at the bottom of the drop down box. Please download the application instructions and read thoroughly prior to accessing the application. ***(Applications for a vendor number are accepted online only.)***

Equal Opportunity Compliance (EOC) Number (EOC Administration Office)

At the top of the home page, click on the links "Department", "E" for the Equal Opportunity Compliance and "Contract Compliance Program". The "Contract Compliance Packet" link is in the middle of the page. Please print the packet and ***mail or fax*** the completed packet to the EOC office. The mailing address is 160 N. Main Street, 2nd Floor, Suite 200, Memphis, TN 38103. The fax number is 901-222-1101.

If you have any questions regarding the applications, you may contact Purchasing at (901) 222-2250 or the EOC Administration Office at (901) 222-1100.

Note: To inquire whether your company is a certified vendor with Shelby County Government or after submitting the above applications, you may contact the Buyer of this RFP, Debra Louis at Debra.Louis@shelbycountytn.gov to assist in expediting the process.

III. CORRESPONDENCE

All correspondence, proposals and questions concerning the RFP are to be submitted to:

Debra D. Louis, Buyer
Shelby County Government
Purchasing Department
160 N. Main Street, 9th Floor, Suite 900
Memphis, TN 38103

Respondents requesting additional information or clarification are to contact Ms. Debra D. Louis in writing at debra.louis@shelbycountytn.gov or at the address listed above. Questions should reference the section of the RFP to which the questions pertain and all contact information for the person submitting the questions. ***IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED. The deadline for submitting questions will be Wednesday, August 5, 2015 by 12:00 p.m. (CST).*** These guidelines for communication have been established to ensure a fair and equitable process for all respondents.

Note: All written questions submitted by the deadline indicated above will be answered and posted on the County's website at www.shelbycountytn.gov within forty-eight (48) hours of the above cut-off date.

Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County regarding this RFP may disqualify your company from further consideration.

IV. PROPOSAL SUBMISSION & DEADLINE

All proposals must be received at the address listed above no later than **4:00 p.m. (CST) on Tuesday, August 18, 2015.** Facsimile or electronically submitted (emailed) proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be considered for evaluation. Under no circumstances, regardless of weather conditions, transportation delays, or any other circumstance, will this deadline be extended.

V. PROPOSAL TIMELINE

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective Proposers shall be notified. The dates provided after the RFP closes are approximate and the County reserves the exclusive right to modify these dates in consultation with the successful proposer.

Request for Proposals Released	**Tuesday, July 28, 2015**
Deadline for Questions	**Wednesday, August 5, 2015 by 12:00 pm**
Proposal Due Date	**Tuesday, August 18, 2015 by 4:00 pm (CST)**
Notification of Award	**September 2015**
Services to Commence	**Immediately upon execution of the contract**

The County may reproduce any of the Proposer's proposal and supporting documents for internal use or for any other purpose required by law.

VI. PROPOSAL CONDITIONS

A. Contingencies

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all Proposers, in writing, if the County rejects all proposals.

B. Modifications

The County reserves the right to issue addenda or amendments to this RFP.

C. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the proposer's responsibility to ensure that its proposals arrive on or before the specified time.

D. Incurred Costs

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this RFP and Proposers agree that all costs incurred in developing this RFP are the proposer's responsibility.

E. Final Authority

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

F. Proposal Validity

Proposals submitted hereunder will be firm for at least ninety (90) calendar days from the due date unless otherwise qualified.

G. Disclosure of Proposal Contents

Provider understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to the County is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process and before the time of "Notice of Intent to Award" is issued. Thereafter, proposals will become public information. ***All proposals and other materials submitted become the property of Shelby County Government.***

H. LOSB

The County encourages the utilization of locally-owned small businesses as sources of subcontract work. The County notifies all respondents that all firms and/or individuals shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Title VI of the Civil Rights Act of 1964, as amended.

LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES AND REGULATIONS:

(i) The Administrator of Purchasing in conjunction with the Administrator of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.

(ii) Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.

(iii) The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of $250,000 or more. Contracts amounting to at least ten (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.

(iv) After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.

(v) On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.

(vi) Failure by a supplier or contractor to include locally owned small business sub-contractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or contractor can show documented evidence of good cause why none were included.

(vii) Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.

(viii) As to those purchases below the requirement for a formal bid solicitation (currently, under $15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned small business.

(ix) In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

a. A preference of up to five percent (5%) shall be allowed for contracts up to $500,000.00;

b. A preference of up to three and one-half percent (3.5%) shall be allowed for contracts up to $750,000.00;

c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to $1,000,000.00;

d. A preference of two percent (2%) shall be allowed for contracts that exceed $1,000,000.00.

(x) For construction contracts over $2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent subcontracting threshold must be met prior to contract execution.

(xi) The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

(xii) The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

(xiii) The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

(xiv) The Administrator of EOC shall, in conjunction with the Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

VII. GENERAL REQUIREMENTS

A. Background

After voting machines have been prepared for the election, the voting machines shall be delivered to the polling places at least twelve (12) hours before the time set for the opening of the polls, T.C.A. 2-9-106 and returned within twenty-four (24) hours after the close of the polls, or as soon thereafter as practicable, T.C.A. 2-9-107. Therefore, the County has the need for the provision of professional services to move the voting machines for the upcoming elections.

B. Scope of Contract

The County wishes to engage in a contractual relationship with the best-qualified proposer selected through a competitive process that will work well with the County's personnel in the performance of the Services in a manner that is cost-effective and practical of which price is but one of the selection criteria.

C. Project Time Frame

The initial contract term begins immediately upon execution of the contract through June 30, 2016, with the option to renew, upon agreement of all parties, for four (4) additional one year periods beginning July through June with the same terms and conditions and satisfactory performance of all

criteria and subject to the availability of funds for each renewal period. The Contractor must be prepared to begin immediately upon receipt of a Notice to Proceed.

D. Reservation of Rights

The County reserves the right, for any reason to accept or reject any one or more proposals, to negotiate the term and specifications for the services provided, to modify any part of the RFP, or to issue a new RFP.

The County may at any reasonable time, at its expense, make an audit of the Contractor's books relative to the Accounts.

E. Selection Criteria

Each proposal response will be evaluated on the criteria outlined in the RFP document, see Section XI and XII. Each proposer should set out in it's response to this RFP to clearly identify the qualifications of its company and each individual who will work on this project.

F. Additional Information and References

Any additional information that would be helpful to the County in evaluating the proposal, including a list of current and former clients with a similar profile to Shelby County, should be submitted. At least three (3) current, or former clients who have terminated in the last five (5) years, should be included on this list.

VIII. AWARD OF CONTRACT

Proposers are advised that the lowest cost proposal will not necessarily be awarded the contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor.

The award will be made to the proposer whose proposal is determined to be best in terms of professional and technical completeness. The selection process may, however, include a request for additional information or an oral presentation to support the written proposal.

The proposers whose proposals do not meet the mandatory minimum requirements will be considered noncompliant. After evaluation of the proposals and selection of the successful proposer, all proposers will be notified in writing of the selected firm.

IX. PURPOSE / SCOPE OF WORK

The purpose of this RFP is to select the best-qualified proposer (hereinafter referred to as "Contractor) and award a County-approved contract for professional services to perform the Services and to satisfactorily complete all activities associated with the Services.

Services Required

A. Delivery and pickup of 1,300 or less touch screen voting units to and from approximately one hundred and sixty-eight (168) polling locations, wherever situated throughout Memphis and Shelby County. The AccuVote-TSX voting unit is encased in a voting booth and weighs approximately 26 lbs. and may be transported in racks. Each rack can hold up to four to six voting booths. The touch screen voting units are stored and may be seen at the Election Operations Center, 980 Nixon Drive. The number of voting machines transported to each precinct will vary according to election circumstances.

B. Delivery and pickup of one (1) concrete stand for holding the American Flag at one hundred forty-six (146) polling locations where required.

C. Contractor must maintain during any election day, two (2) trucks and two (2) standby crews for the handling and delivery of voting units and equipment as directed by the proper authority. The charge for delivery of such extra machines shall be as specified in Section XI.C. - Cost and Fees, Item d. so long as such delivery is made during regular working hours. Any wrong delivery of voting units by the Contractor will be corrected at no charge to the County.

D. Contractor must maintain during the close of the election, five (5) or more crews and trucks for the pickup and delivery of ballot boxes, electronic poll books, at five (5) or more turn-in zones located throughout Memphis and Shelby County, TN. The ballot boxes shall be returned on election night to the Election Operations Center, 980 Nixon Drive.

X. CONTRACT REQUIREMENTS

The successful Proposer will be expected to enter into a contract incorporating the following terms and conditions, and such additional terms and conditions standard to services of this type.

A. General Requirements

1. Control. All services by the Contractor will be performed in a manner satisfactory to the County, and in accordance with the generally accepted business practices and procedures of the County.

2. Contractor's Personnel. The Contractor certifies that it presently has adequate qualified personnel to perform all services required under this Contract. All work under this Contract will be supervised by the Contractor. The Contractor further certifies that all of its employees assigned to serve the County have such knowledge and experience as required to perform the duties assigned to them. Any employee of the Contractor who, in the opinion of the County, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with services under this Contract.

3. Independent Status. (a) Nothing in this Contract shall be deemed to represent that the Contractor, or any of the Contractor's employees or agents, are the agents, representatives, or employees of the County. The Contractor will be an independent contractor over the details and means for performing its obligations under this Contract. Anything in this Contract which may appear to give the County the right to direct the Contractor as to the details of the performance of its obligations under this Contract or to exercise a measure of control over the Contractor is solely for purposes of compliance with local, state and federal regulations and means that the Contractor will follow the desires of the County only as to the intended results of the scope of this Contract.

(b) It is further expressly agreed and understood by the Contractor that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the County; that the Contractor has been retained by the County to perform the services specified herein (not hired) and that the remuneration specified herein is considered fees for services performed (not wages) and that invoices submitted to the County by the Contractor for services performed shall be on the Contractor's letterhead.

4. Termination Or Abandonment. (a) It shall be cause for the immediate termination of this Contract if, after its execution, the County determines that either:

(i) the Contractor or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.

(ii) The Contractor has subcontracted, assigned, delegated, or transferred its rights, obligations or interests under this Contract without the County's consent or approval.

(iii) The Contractor has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer is appointed to take charge of all or part of Contractor's assets.

(b) The County may terminate the Contract upon five (5) days written notice by the County or its authorized agent to the Contractor for the Contractor's failure to provide the services specified under this Contract.

(c) This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date; however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned as of the date of termination.

(d) All work accomplished by Contractor prior to the date of such termination shall be recorded and tangible work documents shall be transferred to and become the sole property of the County prior to payment for services rendered.

(e) Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Contractor and the County may withhold any payments to Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

5. Subcontracting, Assignment Or Transfer. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the Contractor from performance of its duties under this contract. The County shall not be responsible for the fulfillment of the Contractor's obligations to its transferors or sub-contractors. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the assignment.

6. Conflict Of Interest. The Contractor covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of its services. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of the County as wages, compensation, or gifts in exchange for acting as officer, agent, employee, sub-contractor to the Contractor in connection with any work contemplated or performed relative to this Contract.

7. Covenant Against Contingent Fees. The Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the County will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

8. Employment Of County Workers. The Contractor will not engage on a full or part-time or other basis during the period of the Contract, any professional or technical personnel who are in the current employment of the County.

(b) Notwithstanding the foregoing, no prior County official or employee may be employed by or receive compensation, wages or benefits from the Contractor for a period of one year from employment separation from the County if during the period of employment with the County the employee or official had any direct or indirect involvement with the Contractor's services or operations provided to the County.

9. Arbitration. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the Contractor and the County will be referred to the Shelby County Contract Administrator or his/her duly authorized representative, whose decision regarding same will be final.

10. General Compliance With Laws. (a) If required, the Contractor shall certify that it is qualified and duly licensed to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

(b) The Contractor is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, the Americans with Disabilities Act (ADA).

(c) This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Contractor agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

11. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

12. Entire Agreement. This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral Contracts between the parties.

13. Amendment. This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.

14. Severability. If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a provision as similar in terms to such unlawful, invalid or unenforceable provision as may be possible, and be legal, valid and enforceable.

15. No Waiver Of Contractual Right. No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

16. Matters To Be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this contract.

17. Subject To Funding. This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the term hereof, then this Contract will be terminated. In the event of such termination, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the termination date.

18. Travel Expenses. All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. No travel advances will be made by the County.

19. Incorporation Of Other Documents. (a) The Contractor shall provide services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposal as well as the response of the Contractor, thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.

(b) It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

20. Contracting With Locally Owned Small Businesses. The Contractor shall take affirmative action to utilized Locally Owned Small Businesses when possible as sources of supplies, equipment, construction and services.

21. Incorporation Of Whereas Clauses. The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

22. Waiver Of Proprietary Interest. Notwithstanding anything to the contrary contained herein or within any other document supplied to the County by the Contractor, the Contractor understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to the County by the Contractor due to services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

23. Organization Status And Authority. (a) The Contractor represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

(b) The execution, delivery and performance of this Contract by the Contractor has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of the Contractor, any provision of any indenture, agreement or other instrument to which the Contractor is a party, or by which the Contractor's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

24. Warranty. The Contractor warrants to the County that all Services shall be performed in accordance with acceptable standards in the industry applicable to the Services. The Contractor shall correct, at its sole cost and expense, any work reasonably deemed to be unsatisfactory by the County. The Contractor warrants to the County that all Services shall be in strict compliance with the terms of this Contract, and all applicable governmental laws, rules and regulations.

25. Rights in Data. The County shall become the owner, and the Contractor shall be required to grant to the County, or its successors, a perpetual, non-exclusive, non-transferable, royalty-free right, in the County's name, to use any deliverables provided by the Contractor under this Contract, regardless of whether they are proprietary to the Contractor or to any third parties.

B. INDEMNIFICATION AND INSURANCE REQUIREMENTS

1. Responsibilities For Claims And Liabilities. (a) The Contractor shall indemnify, defend, save and hold harmless the County, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the duties hereunder, whether performed by the Contractor its sub-contractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.

(b) The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, defend, save and hold harmless the County or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.

(c) The County has no obligation to provide legal counsel or defense to the Contractor or its sub-contractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor as a result of or relating to obligations under this Contract.

(d) Except as expressly provided herein, the County has no obligation for the payment of any judgment or the settlement of any claims against the Contractor as a result of or relating to obligations under this Contract.

(e) The Contractor shall immediately notify the County, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, 9th Floor, Suite 950, Memphis, TN 38103, of any claim or suit made or filed against the Contractor or its sub-contractors regarding any matter resulting from or relating to the Contractor's obligations under this Contract and will cooperate, assist and consult with the County in the defense or investigation thereof.

(f) The Provider shall immediately notify Shelby County Government, Contracts Administration, 160 N. Main Street, 9th Floor, Suite 950, Memphis, TN 38103, of cancellation or changes in any of the insurance coverage required.

2. Insurance/Bond Requirements. The Contractor shall purchase and maintain, in a company or companies authorized to do business in the State of Tennessee, such insurance as will protect the County from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone

directly or indirectly employed by any of them, or by anyone for whose acts the Contractor or subcontractor may be liable.

The insurance required shall be written for not less than any limits of liability specified below or required by law, whichever is greater. The Contractor will maintain throughout the life of this Contract insurance, through insurers rated A+:X or better by A. M. BEST, in the following minimum requirements:

1) ***Commercial General Liability Insurance*** – limit of not less than $1,000,000 limit per occurrence bodily injury and property damage/$1,000,000 personal and advertising injury/$2,000,000 General Aggregate/$2,000,000 Products-Completed Operations Aggregate. Shelby County Government, its elected officials, appointees, employees and members of boards, agencies, and commissions shall be named as additional insureds. The insurance shall include coverage for the following:
   a) Premises/Operations
   b) Explosion, Collapse, & Underground, as applicable
   c) Products/Completed Operations
   d) Contractual
   e) Independent Contractors
   f) Broad Form Property Damage
   g) Personal Injury and Advertising Liability

2) ***Business Automobile Liability Insurance*** – limit of not less than $1,000,000 per occurrence for property damage and bodily injury. Shelby County Government, its elected officials, appointees, employees and members of boards, agencies, and commissions shall be named as additional insured. Coverage is to be provided on all:
   a) Owned/Leased Autos
   b) Non-owned Autos
   c) Hired Autos

3) ***Workers Compensation and Employers' Liability Insurance*** - Workers Compensation limits as required by Tennessee statute. This policy should include Employers' Liability Coverage with minimum limits of Bodily Injury by Accident $1,000,000 each accident; Bodily Injury by Disease $1,000,000 policy limit; Bodily Injury by Disease $1,000,000 each employee. The Contractor waives its right of subrogation against Shelby County for any and all workers' compensation claims.

4) ***Cargo Coverage*** – minimum limit of $200,000 coverage on machines in transit per vehicle.

5) ***Bid Bond or Cashier's Check –*** Payable to Shelby County Government in the amount of five percent (5%) of the bid must accompany each proposal when submitted.

Bid Bonds submitted by unsuccessful vendors will be returned upon award of the contract, T.C.A. § 12-3-203 (j). Please submit your request in writing.

6) ***Performance Bond and Labor/Material Bond –*** Separate bonds each equal to one hundred percent (100%) of the amount of the contract, to be furnished by the successful Contractor.

All policies will provide for thirty (30) days written notice to Shelby County Government of cancellation of coverage provided, or ten (10) days notice applicable to non-payment of premium. If the insurer is not required by the policy terms and conditions to provide written notice of cancellation to Shelby County, the Contractor will provide immediate notice to Shelby County and evidence of replacement coverage with no lapse.

Upon termination or cancellation of any claims-made insurance currently in effect under this Contract, the Contractor shall purchase replacement coverage and/or an extended reporting endorsement and furnish evidence of same to the County.

All insurance policies maintained by the Contractor shall provide that insurance as applying to Shelby County shall be primary and non-contributing irrespective of such insurance or self-insurance as Shelby County may maintain in its own name and on its own behalf.

Proposers are required to provide evidence of the above insurance coverage with their proposal and, shall maintain said insurance during the entire Contract period as well as provide renewal Certificates of Insurance on each anniversary date. The certificate holder is to read:

Shelby County Government
Purchasing Department
160 N. Main Street, 9th Floor, Suite 900
Memphis, TN 38103

C. Right to Monitor and Audit

Access To Records. During all phases of the work and services to be provided hereunder the Contractor agrees to permit duly authorized agents and employees of the County, to enter the Contractor's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The Contractor will maintain all books, documents, papers, accounting records, and other evidence pertaining to the fee paid under this Contract and make such materials available at their offices at all reasonable times during the period of this Contract and for three (3) years from the date of payment under this Contract for inspection by the County or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.

XI. PROPOSAL SUBMISSION

A. GENERAL

1. All interested and qualified proposers are invited to submit a proposal for consideration. Submission of a proposal indicates that the Proposer has read and understands this entire RFP, including all attachments, exhibits, schedules, and addenda (as applicable) and all concerns regarding this RFP have been satisfied.

2. Proposals must be submitted in the format described below. Proposals are to be prepared in such a way as to provide a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Expensive bindings, colored displays, promotional materials, etc. are neither necessary nor desired. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content.

3. Proposals must be complete in all respects as required in this section. A proposal may not be considered if it is conditional or incomplete.

4. **Hard copy proposals must be received by <u>no later than 4:00 pm (CST) on Tuesday, August 18, 2015,</u> at Shelby County Government Purchasing Department, 160 N. Main Street, 9th Floor, Suite 900, Memphis, TN 38103.**

5. The proposer agrees to provide the County with any additional information it deems necessary to accurately determine ability to perform the services proposed. Furthermore, submission of this proposal constitutes permission by this organization for the County to verify all information contained in the proposal. Failure to comply with any request for additional information may disqualify this organization from further consideration. Such additional information may include evidence of financial ability to perform.

B. PROPOSAL PRESENTATION

1. One (1) original **(clearly identified as original)** and four (4) copies of the proposal are required.

2. The package containing the original and copies must be sealed and marked with the proposer's name and **"CONFIDENTIAL - DRAYAGE OF VOTING MACHINES, RFP #16-007-07"** with due date and time indicated.

3. Proposals must be typed. Erasures and "white-out" are not permitted. Mistakes may be crossed out, and corrections may be typed adjacent and initialed in ink by the

person signing the proposal. Please identify all attachments, literature and samples, etc., with your firm name and our bid number.

4. Proposals must be verified before submission as they cannot be withdrawn or corrected after the due date and time. The County will not be responsible for errors or omissions on the part of the proposers in preparing their proposals. A responsible officer or employee must sign proposals. Tennessee sales tax shall not be included in the Contractor's proposal.

5. ***A current Certificate of Insurance is required with proposal submission.***

6. ***Bid Bond or Cashier's Check – Payable to Shelby County Government in the amount of five percent (5%) of the bid must accompany each proposal when submitted.***

C. PROPOSAL FORMAT

Response to this RFP must be in the form of a proposal package that must be submitted in the following format: **Please download the attachment to this document**. The Proposal Response Sheet ***(required document)*** should be the first page of your written response.

1. **Cover Page** – Submit on letterhead stationary, signed by a duly authorized officer, employee, or agent of the organization/firm.

2. **Comprehensive Response**
   (This portion of the proposal must address each item listed below.)

   a. This portion of the proposal must address all requirements and services outlined in the RFP document specifically Section II – Minimum Requirements and Section IX – Purpose/Scope of Work in your proposal response.

   b. Outline of how respondent can meet or exceed the minimum requirements.

   c. Detail of how the respondent is qualified to provide the services required.

   d. A detailed description of the approach for accomplishing the services (include a time schedule for completion of each element).

3. **Cost and Fees** ***(Cost will be set for the length of the Contract.)***

   a. Provide the applicable itemized fees and any commissions included in the proposal for the Services for each element in the scope of work (this includes a

break-down of the cost proposed for any sub-contractor working in conjunction with your organization on the project).

b. Explain any assumptions or constraints in a price proposal to perform the Services.

c. Explain any additional charges or fees in the proposal.

d. Proposals for the subject transportation should be on the basis of the per unit/equipment charge per trip delivery from the Election Operations Center, 980 Nixon Drive.

4. Experience of the Respondent.

A sufficient description of the experience and knowledge base of the proposer to show the proposer's capabilities should be included in the proposal. At a minimum, the description of the experience and knowledge base of the proposer included in the proposal should include, but not necessarily be limited to, the following:

a. A brief description of the history and mission of the proposer, including the proposer's background and mission statement, the length of time the proposer has been in business, a description of the proposer's organizational structure and a description of the proposer's customer make-up;

b. A statement of how long the proposer has provided services similar to the Services requested herein;

c. A general description of the proposer's experience and background in providing services similar to the Services requested herein; and

d. Any other relevant information about the experience and knowledge base of the proposer which is deemed to be material.

e. Resume of each employee engaged in the services, including the role of each and an overview of their previous experience with similar projects.

5. References

References of the Proposer, including at least three (3) other clients for whom the Proposer has provided services similar to the Services (with preference given to clients comparable to Shelby County Government) and, for each such reference, the business name, the identification of a contact person, the title of the contact person and a telephone number;

6. Additional Information

a. A description of any other resources available to the Proposer that will be useful in providing the Services.

b. A description of the methods used by the Proposer to measure the satisfaction of its client.

c. Any other relevant information about the capabilities of the Proposer deemed to be material.

XII. PROPOSAL EVALUATION AND SELECTION

A. Evaluation Process

1. Initial Review – All proposals will be initially evaluated to determine if they meet the following minimum requirements:

   a. The proposal must be complete, in the required format, and be in compliance with all the requirements of the RFP.

   b. Proposers must meet the Minimum Proposer Requirements outlined in Section II of this RFP.

2. Technical Review – Each proposal will be reviewed by a special Ad-Hoc Committee which may elect to schedule a personal presentation and interview with one or more of the proposers. The evaluation committee shall review the submitted proposals and score points as provided in the scoring guidelines. ***The total maximum points the proposer can receive is 100.***

   Proposals meeting the above requirements will be evaluated on the basis of the following criteria:

   a. Understanding of the Services required by the County;
   b. Quality and responsiveness of the proposal and the ability to present a clear understanding of the nature and scope of the project and all terms and requirements are discussed clearly and succinctly;
   c. Demonstrated competence and professional qualifications;
   d. Recent experience in successfully performing similar Services;
   e. Proposed approach in completing the Services;
   f. References;
   g. Qualifications and experience of specific personnel assigned to this project;
   h. Time frame for completion; and

i. Proposed cost to Shelby County Government.

<u>EACH PROPOSAL WILL BE EVALUATED INDEPENDENT OF THE OTHER</u>.

3. Oral Presentation.

The Shelby County Government reserves the right to interview, or require an oral presentation from, any Respondent for clarification of information set forth in the Proposer's response. In this regard, at the discretion of the evaluation committee, some or all Proposers who submit an Proposal in response to this RFP may be asked submit to an interview or give an oral presentation of their respective Proposals to the evaluation committee. If so, this is not to be a presentation restating the Proposal, but rather an in-depth analysis of certain qualifications of the Proposer. The interview or oral presentation, if utilized, is intended to provide an opportunity for the Proposer to clarify or elaborate on its qualifications without restating the Proposal. The interview or oral presentation is to be a fact finding and explanation session only and is not to be used to negotiate any terms of contract. If required, the time and location of such interview or oral presentation will be scheduled by the Administrator of Purchasing. Interviews and oral presentations are strictly an option of the Shelby County Government or its evaluation committee and, consequently, may or may not be conducted. All travel expenses to and from the interview or oral presentation shall be the responsibility of the Proposer. Selection will be based on determination of which proposal best meets the needs of the County and the requirements of this RFP.

B. Contract Award

Contract(s) will be awarded based on a competitive selection of proposals received. The proposers are advised that the lowest cost proposal will not necessarily be awarded the Contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor. The proposals submitted will be evaluated by the County. All decisions are made at the discretion of the County.

The contents of the proposal of the successful proposer will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

The County reserves the right to negotiate any portions of the successful proposer's fees and scope of work or utilize their own resources for such work.

Performance Bond and Labor/Material Bond – Separate bonds each equal to one hundred percent (100%) of the amount of the contract, to be furnished by the successful Contractor.